

an appeal within the prescribed time will bar its consideration and that failure to appeal on the basis of a particular issue will constitute a waiver of that issue in any subsequent proceeding. An appeal from any interim ruling of the Reviewing Officer shall be reserved and considered only at the time of and as part of an appeal from the Reviewing Officer's final decision.

[53 FR 10690, Apr. 1, 1988, as amended at 56 FR 21955, May 13, 1991]

**§ 250.204 Appeals from Reviewing Officer's decision.**

(a)(1) Any appeal from a decision of the Reviewing Officer, together with any supporting argument, shall be submitted by a party to the Director within 30 days after the date of receipt of the decision. The appellant shall provide a copy of the notice of appeal and supporting brief to the Reviewing Officer. Except as provided in § 250.205 of this part, the only issues which will be considered on appeal are jurisdictional questions and those issues specified in the notice of appeal which were properly raised before the Reviewing Officer.

(2) The failure to file a notice of appeal within the time prescribed shall result in the action of the Reviewing Officer becoming the final action of the DOI in the case.

(b) A copy of all of the Reviewing Officer's comments on the appeal submitted to the Director shall be provided to the appellant.

(c)(1) The Director may affirm, reverse, or modify the Reviewing Officer's decision or remand the case for new or additional proceedings.

(2) The Director may increase, remit, mitigate, or suspend, in whole or in part, any penalty assessed by the Reviewing Officer.

(d) The Director's decision shall be in writing, and copies shall be provided to the appellant and the Reviewing Officer.

(e) In the absence of an appeal from the Director's decision pursuant to 30 CFR part 290, the Director's decision on an appeal shall be final. (See § 250.24 of this part.)

[53 FR 10690, Apr. 1, 1988, as amended at 54 FR 50617, Dec. 8, 1989]

**§ 250.205 Reopening a case.**

(a)(1) At any time prior to final MMS action in a civil-penalty case, a party may petition to reopen the proceedings on the basis of newly discovered evidence.

(2) Petitions to reopen a case must be in writing. Petitions shall describe the newly found evidence and state why the evidence would probably produce a different result favorable to the petitioner. The petitioner shall state whether the evidence was known to the petitioner at the time of the proceedings and, if not, why the newly found evidence could not have been discovered during the previous proceedings. The party shall submit the petition to the Reviewing Officer and provide a copy to the Regional Director.

(3) The Reviewing Officer shall consider a petition to reopen a case unless an appeal has been filed. In those cases where an appeal has been timely filed, a petition to reopen a case shall be considered by the Director.

(4) A petition to reopen a case shall be granted only when the Reviewing Officer or Director determines that the petition explains why newly found evidence that would have a direct and material bearing on the issue(s) of the case was not and could not have been produced at the time of the previous proceedings. A decision on a petition to reopen a case shall be in writing. A new decision issued by the Reviewing Officer, on the basis of newly found evidence, may be appealed to the Director in accordance with § 250.204 of this part.

(b) The denial of a petition to reopen a case shall be final and may not be appealed in an action separate from the appeal of the case pursuant in § 250.204 of this part or 30 CFR part 290 of this title.

(c) The Regional Director may, on the basis of newly found evidence, that would probably produce a different result, reopen a case pursuant to § 250.203(a) of this part.

**§ 250.206 Civil penalties.**

(a)(1) If the Reviewing Officer determines that a civil penalty is to be assessed, the penalty shall not exceed \$20,000 for each day of the continuation of the violation. For violations described in § 250.200(b)(1) of this part, the